



FOR IMMEDIATE RELEASE
September 6, 2007

For Information Contact Public Affairs
WYN HORNBUCKLE
Telephone: (602) 514-7573
Cell: (602) 740-2422

FEDERAL DISTRICT COURT CHIEF JUDGE FINDS MT. LEMMON RECREATION FEE VIOLATOR RESPONSIBLE FOR FAILING TO PAY \$5 RECREATION FEE

TUCSON, Ariz. - The \$5.00 daily recreation fee charged by the U.S. National Forest Service for the Mt. Lemmon recreation area was validated on Wednesday by U.S. District Court Chief Judge John M. Roll when he found Christine Wallace guilty of the offense of failing to pay the fee.

In September 2005, the U.S. National Forest Service issued two separate citations against Christine Wallace (after having issued her four separate warning notices between May 2003 and July 2004 for similar violations) for failure to pay the required recreation fee when she parked her car and went for a hike in the Mt. Lemmon Recreation Area along the Mt. Lemmon Highway. On September 5, 2006, a U.S. Magistrate Judge in Tucson granted Wallace's motion to dismiss the criminal case, temporarily calling into question the legality of the Mt. Lemmon recreation fee. The United States Attorney's Office along with the U.S. National Forest Service appealed that decision, and obtained a reversal of the dismissal order. U.S. District Court Chief Judge John M. Roll ruled on appeal that the Mt. Lemmon recreation fee is legal, and the citations against Wallace were re-instated.

In his published appellate opinion earlier this year, Chief Judge Roll found that the Forest Service is legally justified in charging a recreation fee for the combined recreation areas in the Mt. Lemmon area along the Mt. Lemmon Highway. Chief Judge Roll further found that the Forest Service is legally justified in assessing the recreation fee by vehicle and in citing vehicles that are parked within the recreation areas along Mt. Lemmon Highway that do not display proof of payment. As such, the Magistrate's previous order to the contrary was vacated. On September 5, a bench trial was held before the Chief Judge and he found Wallace guilty of not paying the fee.

The government's evidence at trial indicated that Wallace failed to pay the fee on five other occasions dating back to 2003, and had never responded to any of the warnings that gave her the opportunity to pay. The government's evidence also showed that she told the Forest Protection Officer that she did not pay the fee because she did not believe in the fee program and that her tax dollars should allow her to use the forest. Chief Judge Roll found that this was in direct contradiction of the law, the validity of which he had previously upheld in the government's appeal of the pretrial motion to dismiss. Wallace was fined \$100, the maximum fine allowed under the statute for the citation.

The investigation in this case was handled by the National Forest Service. The prosecution and appeal were handled by Jennifer J. Maldonado, Assistant U.S. Attorney, District of Arizona, Tucson, Ariz., and Ellen R. Hornstein, Office of the General Counsel, U.S. Department of Agriculture, Special Assistant U.S. Attorney.

-MORE-

CASE NUMBER: CR-06-1577-TUC-JMR
RELEASE NUMBER: 2007-196(Wallace)

#